

In the High Court of Uttarakhand, at Nainital.

(1) Income Tax Appeal No. 43 of 2006

Commissioner of Income Tax,
Dehradun Appellant.

Vs.

M/S Keshi Builders,
75, Rajpur Road, Dehradun Respondent

(2) Income Tax Appeal No. 44 of 2006

Commissioner of Income Tax,
Dehradun Appellant

Vs.

M/S Keshi Builders,
75, Rajpur Road, Dehradun Respondent.

(3) Income Tax Appeal No. 45 of 2006

Commissioner of Income Tax,
Dehradun Appellant.

Vs.

M/S Keshi Builders,
75, Rajpur Road, Dehradun Respondent.

(4) Income Tax Appeal No. 46 of 2006

Commissioner of Income Tax,
Dehradun Appellant,

Vs.

M/S Keshi Builders,
75, Rajpur Road, Dehradun Respondent

(5) Income Tax Appeal No. 47 of 2006

Commissioner of Income Tax,
Dehradun Appellant,

Vs.

M/S Keshi Builders,
75, Rajpur Road, Dehradun Respondent

Sri P. Maulekhi, learned counsel for the applicant.

Coram: Hon'ble P.C. Verma, J.
Hon'ble B.C. Kandpal, J.

Dated: 21st February, 2006

(Per: Hon'ble B.C. Kandpal, J.)

All these income Tax appeals under Section 260-A of the Income Tax Act, 1961 arise out against the impugned order dated 29.7.2005, passed by the Income Tax Appellate Tribunal, by which the Tribunal was pleased to allow the appeals filed by the respondent/assessee. The impugned order is common for all the assessment years – 1996-97, 1997-98, 1998-99, 1999-2000 and 2000-2001.

2- The department has filed five appeals against the impugned order, which is common for all the aforesaid assessment years.

3- As the common issue arises in all the appeals, therefore, all the appeals are being decided by the common judgment.

4. The brief facts giving rise to the appeals are that the assessee firm carries on a business of developer of commercial buildings and 1996-97 was the first year of the assessee's business. The assessee constructed a shopping complex during the assessment years 1996-97 to 2001-2002. For these assessment years the assessee maintained regular books of account for each year, duly supported by purchase invoice, labour muster rolls, etc. The Assessing Officer (A.O.) did not find any expenditure incurred over and above that which was recorded in the books of accounts by the assessee. Therefore, the A.O. referred the matter under Section 131(1)(d) of the Act for elucidation of cost of construction. The Income Tax Appellate Tribunal came to the conclusion that the report of the D.V.O. under Section 131(1)(d) of the Act could not and should not have been made the basis for estimating the cost of stock-in-trade. The I.T.A.T. did not find any defect in the books of account maintained by the assessee in the regular course of its business in a systematic manner. The I.T.A.T. was also of the view that it does not appear to reason that the assessee was incurred any expenditure over and above what it had recorded in the books of account, which might result in the increase of cost, thereby giving loss to the assessee, and disclosed in its books of account, was accepted by the A.O. The Income Tax

Appellate Tribunal, therefore, partly allowed all the appeals filed by the assessee, vide impugned order dated 29.7.2005.

5- Feeling aggrieved by the aforesaid impugned order the Commissioner, Income Tax filed the appeals before this Court.

6- Heard the learned counsel for the appellant and perused the record.

7- Considering the impugned order passed by the Income Tax Appellate Tribunal, we are of the view that no substantial question of law is involved in this case. The Income Tax Appellate Tribunal has given a categorical finding that no defects were found in the books of account maintained by the assessee in the regular course of business in a systematic manner. The Income Tax Appellate Tribunal was also of the view that there was no justification for sustaining the addition on the basis of the **D.V.O.'s** report. The finding of the Income Tax Appellate Tribunal is based on the factual aspect and the same cannot be gone into by way of this appeal.

8- The appeals being devoid of any merit, are liable to be dismissed.

9- Accordingly all the appeals are dismissed.

10- Let a copy of this order be placed in the each file of I.T.A. Nos. 44/2006 to 47/2006.

(B.C. Kandpal, J.)

(P.C. Verma, J.)

ISB